

January 27, 2005

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L04P0004**
Proposed Ordinance No. **2005-0001**

WEST CREEK COURT
Preliminary Plat Application

Location: Between 111th Avenue Southeast and 112th Avenue Southeast at
Southeast 216th Street

Applicant: Vineyards Construction LLC
represented by **Cliff Williams**
Belmont Homes
5326 SW Manning Street
Seattle, Washington 98116
Telephone: (206) 714-7161

King County: Department of Development and Environmental Services
represented by **Kim Claussen**
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 296-7167
Facsimile: (206) 296-7051

SUMMARY OF DECISION/RECOMMENDATION:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Same as above
Examiner's Decision:	Approve, subject to conditions

EXAMINER PROCEEDINGS:

Hearing Opened:	January 20, 2005
Continued for Administrative Purposes:	January 20, 2005
Hearing Closed:	January 26, 2005

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Surface water adjustment
- Combined stormwater detention and recreation area tract
- Safe walking conditions

SUMMARY: Application for the subdivision of 2 acres into 11 lots in the Urban Area is granted preliminary approval subject to conditions.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:**1. General Information:**

Owner/Developer: Bob Wenzl
Vineyards Construction
PO Box 2401
Kirkland, WA 98083
425-893-8478

Engineer: Core Design, Inc.
14711 Northeast 29th Place, Suite 101
Bellevue, WA 98007
(425) 885-7877

STR: 8-22-05
Location: The site is located between 111th Ave. SE and 112th Ave. SE and SE 216th St.
Zoning: R-6
Acreage: 2 acres
Number of Lots: 11
Density: Approximately 5.5 units per acre
Lot Size: Approximately 4,450-7,020 square feet in size
Proposed Use: Single-family Detached Residences
Sewage Disposal: Soos Creek
Water Supply: Soos Creek
Fire District: King County Fire District No. 37
School District: Kent School District

Complete Application Date: June 3, 2004

2. Except as modified herein, the facts set forth in the DDES preliminary report to the Hearing Examiner for the January 20, 2005, public hearing are found to be correct and are incorporated herein by this reference. Said report is exhibit no. 2 in the hearing record.

The proposed density of this development is 5.5 dwelling units per acre.

3. A surface water adjustment has been approved for this site to combine the surface water flow from the two onsite sub-basins, directing it to a single detention and water-quality facility to be located at the southwest corner of the site. The detention system and Level 2 flow control will eliminate nuisance flows of surface water that presently exist across the western and southern property lines. The discharge from the detention facility to the offsite facility in tracts A and C of West Creek Meadows requires a special use permit.
4. The proposal to provide required recreation area for this subdivision in a common tract with the surface water detention facility is permitted by King County Code. The proposed recreation area will be located in the eastern portion of the tract, approximately 100 feet from the west property line. This location provides easier access and greater visibility of the recreation area from adjacent and nearby lots.
5. Elementary school students residing in this plat will walk to Panther Lake Elementary School. A review of the adequacy and safety of the walking route from this plat to Panther Lake Elementary School was provided by the Applicant to DDES and the Hearing Examiner, and was reviewed by the county traffic engineer and DDES planner. The route consists of sidewalks, adequate shoulders and extra pavement width. The Applicant has offered to stripe the north five feet of the asphalt pavement along the approach of Southeast 212th Street to 108th Avenue Southeast, if deemed necessary by King County. DDES has also identified an alternative route from 109th Avenue Southeast to 108th Avenue Southeast through the plat of Benson Place, where a paved pedestrian tract connects Southeast 214th Place with 108th Avenue Southeast. In the opinion of DDES, no additional offsite improvements are necessary to provide safe walking conditions from the proposed plat to the elementary school.

CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, subdivision and zoning codes, and other official land use controls and policies of King County.
2. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare, and for open spaces, drainage ways, streets, other public ways, transit stops, potable water supply, sanitary waste, parks and recreation, playgrounds, schools and school grounds and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
3. The conditions for final plat approval recommended below are in the public interest and are reasonable requirements to mitigate the impacts of the development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as required for final plat approval or as shown on the proposed preliminary plat submitted by the Applicant on July 30, 2003, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.

5. The location of the proposed recreation area in a combined tract with the surface water detention facility is consistent with King County code. Location of the recreation area in the eastern portion of the tract, as proposed by the Applicant, is a suitable location for the recreation area.
6. No additional improvements are required to provide safe walking conditions for students, unless King County DDES or the Department of Transportation determine that additional striping is required on the north side of Southeast 212th Street, between 109th Avenue Southeast and 108th Avenue Southeast.

DECISION:

The preliminary plat of West Creek Court, as revised and received on May 20, 2004, is granted preliminary approval subject to the following conditions for final plat approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and minimum density requirements of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification or shall be shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environment Services.

Any/all plat boundary discrepancy shall be resolved to the satisfaction of DDES prior to the submittal of the final plat documents. As used in this condition, "discrepancy" is a boundary hiatus, an overlapping boundary or a physical appurtenance which indicates an encroachment, adverse possession or a conflict of title.

4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
5. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in K.C.C. 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.

- a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
- b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
- c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."

7. The stormwater detention facility shall be designed at a minimum to the Level 2 Flow Control and Basic Water Quality requirements in the 1998 King County Surface Water Design Manual (KCSWDM).

A special use permit is required to connect the proposed stormwater facility to the offsite facility in Tracts A and C of West Creek Meadows; unless otherwise approved by King County.

8. A surface water adjustment (L04V0070) is approved for this subdivision. All conditions of approval for this adjustment shall be met prior to engineering plan approval.
9. The following road improvements are required to be constructed according to the 1993 King County Road Standards (KCRS):
 - a. SE 216th Street shall be improved to the urban subcollector street standard. Sufficient R/W shall be provided to include 1 foot beyond the sidewalks for this improvement.
 - b. The frontage along 112th Ave SE. (east side only) shall be improved to the urban subaccess street standard.
 - c. The access tract from SE 216th Street serving Lots 9 thru 11 and the drainage and recreation tract shall be improved to the private access tract standard per Section 2.09 of the KCRS. The tract shall be owned and maintained by the lot owners served and homeowners' association. Appropriate access easements shall be provided across the tract for county maintenance of the adjoining drainage facility and recreation tract access. Notes to this effect shall be included in the final plat and the engineering plans.
 - d. The tract serving Lots 9 and 10 from the above private access tract shall be improved to the joint use driveway standard per Section 3.01 of the KCRS. This driveway shall be owned

- and maintained by the lot owners served. Notes to this effect shall be included in the final plat and on the engineering plans.
- e. Modifications to the above road conditions may be considered according to the variance procedures in Section 1.08 of the KCRS.
 - f. If required by King County DDES or the King County Department of Transportation, striping shall be provided on Southeast 212th Street, between 109th Avenue Southeast and 108th Avenue Southeast, to delineate the portion of the roadway reserved for pedestrian travel.
- 10. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
 - 11. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at the final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
 - 12. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to the recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
 - 13. Suitable recreation space shall be provided consistent with the requirements of K.C.C. 21A.14.180 and K.C.C. 21A. 14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - a. A detailed recreation space plan (i.e., location, area calculations, dimensions, landscape specs, equipment specs, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of engineering plans. The recreation area shall be provided in the easterly portion of the combined stormwater detention and recreation tract.
 - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
 - 14. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, open space and/or sensitive area tract(s).

15. Street trees shall be provided as follows (per KCRS 5.03 and K.C.C. 21A.16.050):

- a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
- b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
- c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
- d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the county has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
- e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
- f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
- g. The applicant shall contact Metro Service Planning at (206) 684-1622 to determine if SE 216TH St. is on a bus route. If SE 216th St is or will be a bus route, the street tree plan shall also be reviewed by Metro.
- h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current county fees.

16. To implement K.C.C. 21A.38.230 which applies to the site, a detailed tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention plan (and engineering plans) shall be consistent with the requirements of K.C.C. 21A.38.230. No clearing of the subject property is permitted until the final tree retention plan is approved by LUSD. Flagging and temporary fencing of trees to be retained shall be provided, consistent with K.C.C. 21A.38.230.B.4. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except for grading work permitted pursuant to K.C.C. 21A.38.230.B.4.d.(2).

A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots, consistent with K.C.C. 21A.38.230.B.6. (Note that the tree retention plan shall be included as part of the final engineering plans for the subject plat.)

ORDERED this 27th day of January, 2005.

James N. O'Connor
King County Hearing Examiner *pro tem*

TRANSMITTED this 27th day of January, 2005, to the parties and interested persons of record:

Zak Bryson
11307 SE 217th St.
Kent WA 98031

Mark Castelluccio
11042 SE 214th St.
Kent WA 98031

Core Design, Inc.
Attn: Rob Stevens
14711 NE 29th Pl., #101
Bellevue WA 98007

John & Sheila Cowley
21624 - 117th Pl. SE
Kent WA 98031-2307

Cramer Northwest, Inc.
Attn: Terry Wilson
945 N. Central, Ste. 104
Kent WA 98032

Mr. & Mrs. D. Gannon
21631 - 112th Ct. SE
Kent WA 98031

John Hoole
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Jerry
11228 SE 216th St.
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Rick Johnson
11135 SE 216th St.
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MS OAK-DE-0100

Carol Rogers
DDES/LUSD
MS OAK-DE-0100

Steve Townsend
DDES/LUSD
Land Use Inspections
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Larry West
DDES/LUSD
Geo Review
MS OAK-DE-0100

Bruce Whittaker
DDES/LUSD
Prel. Review Engineer
MS OAK-DE-0100

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before February 10, 2005***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before February 17, 2005***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE JANUARY 20, 2005, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L04P0004.

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Kim Claussen, Bruce Whittaker and Kristen Langley, representing the Department; Cliff Williams representing the Applicant; and Connie Wallace.

The following Exhibits were offered and entered into the record:

Exhibit No. 1	Department of Development and Environmental Services file no. L04P0004
Exhibit No. 2	DDES Preliminary Report to the Hearing Examiner dated January 20, 2005
Exhibit No. 3	Application, received March 25, 2004

- Exhibit No. 4 Environmental Checklist, received March 25, 2004
- Exhibit No. 5 Determination of Non-significance dated September 24, 2004
- Exhibit No. 6 Affidavit of Posting indicating posting date of July 9, 2004; and received by DDES on July 12, 2004
- Exhibit No. 7 Plat map (revision), received May 20, 2004
- Exhibit No. 8 Assessor's maps (2) – NE and SE 08-22-05
- Exhibit No. 9 Conceptual Drainage Plan received August 26, 2004
- Exhibit No. 10 Level 1 Drainage Analysis by Cramer Northwest, Inc., received March 25, 2004
- Exhibit No. 11 SWDM Adjustment decision for file no. L04V0070 dated December 9, 2004
- Exhibit No. 12 Conceptual Recreation Space Plan received August 26, 2004
- Exhibit No. 13 Significant Tree map received August 26, 2004
- Exhibit No. 14 Downstream drainage map annotated by Bruce Whittaker
- Exhibit No. 15 School information by Cramer Northwest, Inc., received March 25, 2004
- Exhibit No. 16 Walkway condition photos by DDES
- Exhibit No. 17 Aerial photograph of neighborhood (DDES – GIS)

The following exhibits were entered into the record on January 26, 2005:

- Exhibit No. 18 Copy of email sent January 20, 2005, from Cliff Williams to Kimberly Claussen and Kristen Langley, with attached photographs (2)
- Exhibit No. 19 January 26, 2005, memorandum from Kim Claussen to James O'Connor

JNOC:ms
L04P0004 RPT